

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  DISAGGREGATION OF FEDERAL HIGH- COST SUPPORT FOR RURAL CARRIERS	DOCKET NO. USP-01-2
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**ORDER GRANTING REQUEST FOR HEARING AND  
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued August 9, 2002)

On May 23, 2001, the Federal Communications Commission (FCC) issued its "Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256" (the FCC Order). The FCC Order generally adopted the recommendations of the Federal-State Joint Board on Universal Service and the Rural Task Force (RTF) regarding reform of universal service funding for rural carriers. The FCC Order delegates certain responsibilities to state regulatory authorities such as the Utilities Board (Board).

One of those delegated responsibilities was a requirement that each rural carrier make an election, filed with the Board, regarding disaggregation of its universal service funding. The Board was then required to certify those elections to the FCC and the Universal Service Administrative Company (USAC).

Disaggregation is a process of assigning universal service support based upon the cost of serving customers located in different geographic areas. Prior to disaggregation, federal high-cost support for rural carriers is averaged across all lines served by a carrier in its study area. Thus, support on a per-line basis is the same even though it is highly likely that the cost to provide service varies among customers. The support is portable, so if a competitive local exchange carrier (CLEC) competes for and wins customers, the CLEC gets the support associated with those customers. This tends to create an artificial incentive for competitive entry in the relatively low-cost areas (in towns, for instance) and a disincentive to compete for the higher-than-average-cost customers (the most rural customers).

As part of its reform, the FCC adopted the RTF recommendation that rural carriers should have the option of disaggregating their high-cost universal service support into geographic areas smaller than the study area. This required that the carriers target the support to the highest-cost lines, reducing the distortion of the incentives for competitive entry.

The RTF recommended that rural carriers should have flexibility in the manner in which the support is disaggregated and targeted, due to the widely varying characteristics and operating environments they face. Accordingly, the RTF recommended, and the FCC adopted, a three-path disaggregation system. Each carrier was required to elect one of the paths so that the Board could certify the decision to the FCC and USAC prior to May 15, 2002.

On September 7, 2001, the Board issued an order proposing procedures for the fulfillment of this delegated duty, establishing certain deadlines for the carriers to make their election. On October 16, 2001, the Board finalized those procedures.

One of the disaggregation options available to the carriers was identified as "Path Three." Path Three permits carriers to self-certify a method of disaggregation with the Board. These disaggregating plans would have to meet certain minimum FCC requirements:

1. Support must be disaggregated into no more than two cost zones per wire center;
2. If a disaggregation plan has been previously adopted, the new plan must use the same rationale;
3. The rationale must be described in some detail (including the methods and data and a discussion regarding compliance) and reasonably related to the cost of providing service in each zone for each category of support; and
4. If the plan uses a benchmark to determine support amounts, the benchmark must be explained, supported, and consistent with the manner in which the total study area level of support is derived.

The plan must then show the per-line amount of support for each category of support in each zone. (The supporting information should be posted on USAC's web site so

potential competitors can see the available support and challenge the plan if they believe it produces unreasonable results.)

A carrier's election of Path Three became effective upon filing of the certification and will continue for at least four years unless the Board requires disaggregation on different terms, acting on its own motion, or upon petition from any interested party, including the affected carrier. Path Three is intended to permit rapid implementation of disaggregation plans with reduced administrative and cost burdens on carriers and states. At the same time, it attempts to strike a reasonable balance between flexibility and ensuring support is disaggregated in a competitively neutral manner.

On March 12, 2002, Heartland Telecommunications of Iowa, d/b/a HickoryTech (HickoryTech), filed with the Board a disaggregation plan. HickoryTech opted for Path Three disaggregation.

On April 17, 2002, Hawarden Municipal Communications Utility, d/b/a HITEC (HITEC), filed an objection to HickoryTech's disaggregation plan, alleging that HickoryTech's plan is not cost-based and does not further the goal of promoting competition within local exchange areas because the result will be that HITEC, a competitor of HickoryTech in the Hawarden exchange, will lose certain long-term support funding.

HickoryTech filed a response to the objection on May 9, 2002, arguing that its disaggregation plan is "precisely as contemplated by the FCC," cost-based, and

reasonable. HickoryTech argues that HITEC's loss of long-term support funding is the natural consequence of any disaggregation plan, which is intended to shift universal service funding from lower-cost to higher-cost service areas. HickoryTech concludes that HITEC presents no allegation for which a hearing would be necessary and essentially asks that the objection be dismissed.

On May 29, 2002, HITEC filed a reply, arguing that the FCC has not given unconditional approval to all two-zone disaggregation plans and that HickoryTech's plan is not cost-based and is likely to have anticompetitive effects.

On June 14, HITEC filed an addendum to its reply, alleging that a review of the disaggregation plans filed by other incumbent local exchange carriers indicates that HickoryTech's plan is the only Iowa plan that designates the corporate limits of a city as the boundary between its two zones and the only plan that relies upon a benchmark to allocate all support to Zone 2.

HITEC has alleged that HickoryTech's disaggregation plan does not reasonably reflect the actual cost differences associated with serving different parts of the Hawarden exchange and that the resulting plan may have anticompetitive effects. These allegations are sufficient to require that this matter be set for hearing to determine whether HickoryTech's plan is reasonably related to the cost of providing service in each zone for each category of support and whether the plan uses a reasonable, consistent, and supported benchmark to determine support

amounts, consistent with the manner in which the total study area level of support is derived.

Accordingly, the Board will docket the HickoryTech disaggregation plan and HITEC's complaint and assign it to an administrative law judge for further proceedings. The disaggregation plan filed by HickoryTech on March 12, 2002, will continue in effect (subject to Board order) until the Board, or a final order of the administrative law judge, orders otherwise.

**IT IS THEREFORE ORDERED:**

1. The disaggregation plan filed by HickoryTech on March 12, 2002, is docketed for investigation as a part of this Docket No. USP-01-2.
2. Pursuant to Iowa Code § 17A.11(1)(b) and 199 IAC 7.1(4), this matter is assigned to Administrative Law Judge Amy Christensen for such further proceedings as may be appropriate.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9<sup>th</sup> day of August, 2002.